UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,114	01/10/2002	Jeff B. Anderson	01545.018a	8138

7590   06/19/2006

Daniel P. McCarthy
PARSONS, BEHLE & LATIMER
201 South Main Street, Suite 1800
P.O. Box 45898
Salt Lake City, UT 84145-0898

EXAMINER
REILLY, SEAN M

ART UNIT	PAPER NUMBER
2153	

DATE MAILED: 06/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>25 March 2006</u>.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>36-64</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>36-64</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

This Office action is in response to Applicant's amendment and request for reconsideration filed on March 25, 2006. New claims 36-64 are presented for further examination. All previous claims have been canceled.

Applicant Admitted Prior Art

Applicant attempts to traverse the Official Notice taken in the non-final action mailed March 18, 2005 with the statement "For rejections relying upon official notice, applicants challenge the Office under MPEP § 2143.04 "C" to provide documentary support, unless those rejections are withdrawn" (see Applicant response July 14, 2005 pg 20). Applicant should note that MPEP § 2143.04 "C" fails to exist in the MPEP. Furthermore as Applicant is aware to adequately traverse an Examiner's statement of Official notice, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. Applicant failed to recite any such statement as to why the noticed fact is not considered to be common knowledge or well-known in the art and thus Applicant's attempted traverse is not adequate. Accordingly the well-known in the art statements as recited on pgs 16, 17, 22 and 23 of the non-final office action mailed March 18, 2005 are taken to be admitted prior art because the traverse was inadequate (See MPEP 2144.03 Section C).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1.   **Claims 36-41, 51-55, and 57-63 are rejected under 35 U.S.C. 103(a) as being**

unpatentable over Barker et al. (U.S. Patent Number 6,363,421; hereinafter Barker) and

Applicant admitted prior art.

2.   With regard to claims 36-41, 51-55, and 57-63, Barker disclosed a reporting and

maintenance system for remotely monitoring or controlling devices in an enterprise, the devices

communicating in at least one enterprise management protocol, said reporting and maintenance

system for remotely monitoring or controlling devices in an enterprise comprising:

- ❑   a server group including at least one server (Figure 2, Element Management System

   Server);

- ❑   at least one non-volatile memory device incorporated to said server group (inherent);

- ❑   enterprise devices in electronic communication with said server group through said

   server network hardware (Figure 2, Network Element);

- ❑   a central information system (or superintendent system) in electronic communication

   with said server group through said server network hardware (Figure 2, Element

   Management System Client);

- ❑ server network hardware connected to said server group, said server network hardware including a gateway (required for network connection communication for instance over the internet, see connections in Figure 3),

- ❑ said server network hardware providing encrypted electronic communication between said server group and said central information system through said gateway (Col 8, lines 45-49), said server network hardware further providing electronic communication between said server group and said enterprise devices (Figure 3, network connections);

- ❑ first computer readable instructions installed to said memory devices, said first instructions providing the function of receiving first messages from enterprise devices in at least one enterprise management protocol including version 1 of SNMP (Traps), said first computer readable instructions providing a message gateway (SNMP Mediator) (Col 21, lines 25-27);

- ❑ second computer readable instructions installed to said memory devices, said second instructions providing the function of forwarding the information contained in the first messages to a central information system by a notification channel (Col 17, lines 5-18).

- ❑ third computer readable instructions installed to said memory devices, said third instructions providing the function of filtering the first messages, the filtering preventing the forwarding of some of the first messages, said filtering prescribed by policy (filter) (Col 17, lines 5-18);

❑ fourth computer readable instructions installed to said memory devices, said

instructions providing the function of translating the first received messages to a

second protocol, said first, second, third, fourth, and fifth computer readable

instructions providing an event translator (Col 21, lines 31-32);

The following instructions (6-8) relate to a client issuing a command. (i.e. a

command from the central information system routed through the server group to an

enterprise device. See example (Col 22, line 46 –Col 23, line 6) and the references

below.

❑ sixth computer readable instructions installed to said memory devices, said

instructions providing the function of receiving second messages from a central

information system through a notification channel, said second messages referencing

at least one enterprise device (Col 22, lines 49-59);

❑ seventh computer readable instructions installed to said memory devices, said

instructions providing the function of translating the second received messages to an

enterprise management protocol utilized by the referenced enterprise devices (Col 19,

lines 13-23);

❑ eighth computer readable instructions installed to said memory devices, said

instructions providing the function of forwarding the information in the second

messages to the referenced enterprise devices in at least one enterprise management

protocol including version 1 of the simple network management protocol (Col 22,

lines 64-67) or (Col 19, lines 55-60),

- said sixth, seventh, and eighth computer readable instructions providing an SNMP translator (Col 19, lines 13-23);

- said tenth instructions providing the function of receiving a software upgrade from a central information system, said tenth instructions also providing the function of delivering the software upgrade to enterprise devices (Col 30, lines 1-25).

However, Baker failed to specifically recite providing the function of executing policy upon recognition of particular states of enterprise devices. Nonetheless as admitted by Applicant in Applicant's specification ¶ 10, it was widely known at the time of Applicant's invention to execute policy upon recognition of particular states of enterprise devices (see Applicant's specification ¶ 10, "Current enterprise management software...execute actions under some conditions. Instructions to execute upon recognition of a particular state are known as policy.") Thus, it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to provide the function of executing policy upon recognition of particular states of enterprise devices so that system administrators could be notified of specific system failures in the network as discussed by applicant in ¶ 10.

Regarding claim 58, Applicant admitted that it was well known in the art at the time of the invention to use multiple servers in a redundant fashion in order to maintain network sustainability for clients. It would have been obvious to one of ordinary skill in the art at the time of the invention to use redundant servers in the Barker system in order to maintain network sustainability for clients.

3.   Claims 42-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barker et al. (U.S. Patent Number 6,363,421; hereinafter Barker) and Applicant admitted prior art in further view of Fowler et al. (U.S. Patent Number 6,714,977).

4.   Regarding claims 42-50, Barker fails to disclose the following:

- ❑ a cabinet housing said server group;

- ❑ a first network enabled temperature sensor, said first temperature sensor positioned to monitor the temperature of the air at the interior of said cabinet; a second network enabled temperature sensor, said second temperature sensor positioned to monitor the temperature of the air outside said cabinet;

- ❑ at least one door included in said cabinet whereby access to said server group is restricted when said doors are in closed position; locks included in said doors whereby said doors may be secured in a closed position, said locks enabled to unlock through an electronic command message from a central information system;

- ❑ a data entry device connected to said locks, said data entry device being mounted to said cabinet, said data entry device providing a human interface external to the cabinet enclosure; said locks enabled to be unlocked through said data entry device;

- ❑ an alarm in proximity to said server group;

- ❑ a network enabled camera whereby a space in proximity to said server group may be monitored

- ❑ a network enabled power controller connected to and being configurable to control the power of at least one server of said server group, said power controller being configurable to accept network commands from a central information system;

Nevertheless, such physical computer room equipment and monitoring mechanisms were

well known in the art at the time of the invention, as evidenced by Fowler. In a related art, a

method for monitoring computer networks and equipment (abstract). Fowler discloses a cabinet

housing a server group (rack, Figure 1, Component 12). Fowler further discloses monitoring the

air temperature (Col 7, lines 11-13), an alarm (Col 7, lines 26-27), a camera (Col 7, lines 29-33)

and a network enabled power controller connected to and being configurable to control the

power of at least one server of said server group, said power controller being configurable to

accept network commands from a central information system (Col 10, lines 38-41). It would

have been obvious to one of ordinary skill in the art at the time of the invention to incorporate

the network monitoring devices disclosed by Fowler within the Barker system, in order to alert

network administrators to out of limit environmental variables which damage computer

equipment (Fowler Col 2, lines 38-40).

Although Fowler fails to disclose at least one door included in said cabinet whereby

access to said server group is restricted when said doors are in closed position; locks included in

said doors whereby said doors may be secured in a closed position, said locks enabled to unlock

through an electronic command message from a central information system; the importance of

physically securing computer systems was well known in the art at the time of the invention as

disclosed by Fowler (Fowler Col 2, lines 30-31). Further, Applicant admitted that doors

containing locally/remotely controllable locks were well known in the art at the time of the

invention. Thus, it would have been obvious to one of ordinary skill in the art at the time of the

invention to use industry standard security measures such as placing a door with a

locally/remotely controllable lock on the rack disclosed by Fowler, in order to further secure the

sever components.

5.   **Claim 56 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barker et al.**
(U.S. Patent Number 6,363,421; hereinafter Barker) and Applicant admitted prior art as
applied above and in further view of Sampson ("Unicenter TNG for Dummies").

6.   Regarding claim 56, Barker fails to disclose instructions installed to said memory devices,

providing the function of accepting network parameters that define the boundaries of an

enterprise, also providing the function of discovering enterprise devices through said server

network hardware using the network parameters. In a related art, Sampson discloses an

enterprise management system which provides the function of accepting network parameters that

define the boundaries of an enterprise, and discover enterprise devices through said server

network hardware using the network parameters (Sampson pg 22-23). It would have been

obvious to one of ordinary skill in the art at the time of the invention to incorporate Sampson's

enterprise discovery functionality within Barker system in order to automate the entry and

management of enterprise devices (Sampson pg 22).

7.   **Claim 64 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barker et al.**
(U.S. Patent Number 6,363,421; hereinafter Barker) and Applicant admitted prior art and
Fowler et al. (U.S. Patent Number 6,714,977); hereinafter Fowler) and Sampson
("Unicenter TNG for Dummies") and the knowledge of one of ordinary skill in the art at
the time of the invention.

8.   Regarding claim 64, Barker discloses a reporting and maintenance system for remotely
monitoring or controlling devices in an enterprise, comprising:

- a server group including at least one server (Figure 2, Element Management System
  Server);

- at least one non-volatile memory device incorporated to said server group (inherent);

- enterprise devices in electronic communication with said server group through said
  server network hardware (Figure 2, Network Element);

- a central information system in electronic communication with said server group
  through said server network hardware (Figure 2, Element Management System
  Client);

- server network hardware connected to said server group, said server network
  hardware including a gateway (inherent for network connection communication, see
  connections in Figure 3),

- said server network hardware providing encrypted electronic communication between
  said server group and said central information system through said gateway (Col 8,
  lines 45-49), said server network hardware further providing electronic
  communication between said server group and said enterprise devices (Figure 3,
  network connections);

- first computer readable instructions installed to said memory devices, said first
  instructions providing the function of receiving first messages from enterprise devices
  in at least one enterprise management protocol including version 1 of SNMP (Traps),

said first computer readable instructions providing a message gateway (SNMP

Mediator) (Col 21, lines 25-27);

□   second computer readable instructions installed to said memory devices, said second

instructions providing the function of forwarding the information contained in the

first messages to a central information system by a notification channel (Col 17, lines

5-18). Barker fails to disclose sending the messages in a preferential order by an

assigned priority from the server group to the central information server. However,

Barker does disclose that enterprise devices send traps to the server group in a

preferential order by an assigned priority so the server group is not overwhelmed, a

form of overload control (Col 34, lines 51-60). Barker further discloses that client

(central information servers) overload may be a problem so overload controls should

be implemented to restrict client overload (Col 29, lines 41-53). Thus, it would have

been obvious to one of ordinary skill in the in the art at the time of the invention to

implement the enterprise device overload controls within the server group, in order to

prevent the central information server from being overloaded with messages.

□   third computer readable instructions installed to said memory devices, said third

instructions providing the function of filtering the first messages, the filtering

preventing the forwarding of some of the first messages, said filtering prescribed by

policy (filter) (Col 17, lines 5-18);

□   fourth computer readable instructions installed to said memory devices, said fourth

instructions providing the function of assigning priority to the information in said first

messages (Col 34, lines 51-60);

- ❏ fifth computer readable instructions installed to said memory devices, said instructions providing the function of translating the first received messages to a second protocol, said first, second, third, fourth, and fifth computer readable instructions providing an event translator (Col 21, lines 31-32);

  The following instructions (6-8) relate to a client issuing a command. (i.e. a command from the central information system routed through the server group to an enterprise device. See example (Col 22, line 46 –Col 23, line 6) and the references below.

- ❏ sixth computer readable instructions installed to said memory devices, said instructions providing the function of receiving second messages from a central information system through a notification channel, said second messages referencing at least one enterprise device (Col 22, lines 49-59);

- ❏ seventh computer readable instructions installed to said memory devices, said instructions providing the function of translating the second received messages to an enterprise management protocol utilized by the referenced enterprise devices (Col 19, lines 13-23);

- ❏ eighth computer readable instructions installed to said memory devices, said instructions providing the function of forwarding the information in the second messages to the referenced enterprise devices in at least one enterprise management protocol including version 1 of the simple network management protocol (Col 22, lines 64-67) or (Col 19, lines 55-60),

          ❑   said sixth, seventh, and eighth computer readable instructions providing an SNMP

               translator (Col 19, lines 13-23);

          ❑   said tenth instructions providing the function of receiving a software upgrade from a

               central information system, said tenth instructions also providing the function of

               delivering the software upgrade to enterprise devices (Col 30, lines 1-25).

However, Baker failed to specifically recite providing the function of executing policy upon recognition of particular states of enterprise devices. Nonetheless as admitted by Applicant in Applicant's specification ¶ 10, it was widely known at the time of Applicant's invention to execute policy upon recognition of particular states of enterprise devices (see Applicant's specification ¶ 10, "Current enterprise management software...execute actions under some conditions. Instructions to execute upon recognition of a particular state are known as policy.") Thus, it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to provide the function of executing policy upon recognition of particular states of enterprise devices so that system administrators could be notified of specific system failures in the network as discussed by applicant in ¶ 10.

      Barker also fails to disclose the following:

      ❑   a cabinet housing said server group;

      ❑   a first network enabled temperature sensor, said first temperature sensor positioned to

            monitor the temperature of the air at the interior of said cabinet; a second network

            enabled temperature sensor, said second temperature sensor positioned to monitor the

            temperature of the air outside said cabinet;

❑   at least one door included in said cabinet whereby access to said server group is

restricted when said doors are in closed position; locks included in said doors

whereby said doors may be secured in a closed position, said locks enabled to unlock

through an electronic command message from a central information system;

❑   a data entry device connected to said locks, said data entry device being mounted to

said cabinet, said data entry device providing a human interface external to the

cabinet enclosure; said locks enabled to be unlocked through said data entry device;

❑   an alarm in proximity to said server group;

❑   a network enabled power controller connected to and being configurable to control

the power of at least one server of said server group, said power controller being

configurable to accept network commands from a central information system;

Nevertheless, such physical computer room equipment and monitoring mechanisms were

well known in the art at the time of the invention, as evidenced by Fowler. In a related art, a

method for monitoring computer networks and equipment (abstract). Fowler discloses a cabinet

housing a server group (rack, Figure 1, Component 12). Fowler further discloses monitoring the

air temperature (Col 7, lines 11-13), an alarm (Col 7, lines 26-27), a camera (Col 7, lines 29-33)

and a network enabled power controller connected to and being configurable to control the

power of at least one server of said server group, said power controller being configurable to

accept network commands from a central information system (Col 10, lines 38-41). It would

have been obvious to one of ordinary skill in the art at the time of the invention to incorporate

the network monitoring devices disclosed by Fowler within the Barker system, in order to alert

network administrators to out of limit environmental variables which damage computer

equipment (Fowler Col 2, lines 38-40).

Although Fowler fails to disclose at least one door included in said cabinet whereby

access to said server group is restricted when said doors are in closed position; locks included in

said doors whereby said doors may be secured in a closed position, said locks enabled to unlock

through an electronic command message from a central information system; the importance of

physically securing computer systems was well known in the art at the time of the invention as

disclosed by Fowler (Fowler Col 2, lines 30-31). Further, Applicant admitted that doors

containing locally/remotely controllable locks were well known in the art at the time of the

invention. Thus, it would have been obvious to one of ordinary skill in the art at the time of the

invention to use industry standard security measures such as placing a door with a

locally/remotely controllable lock on the rack disclosed by Fowler, in order to further secure the

sever components.

Barker fails to disclose ninth computer readable instructions installed to said memory

devices, said ninth instructions providing the function of accepting network parameters that

define the boundaries of an enterprise, said ninth instructions also providing the function of

discovering enterprise devices through said server network hardware using the network

parameters. In a related art, Sampson discloses an enterprise management system which

provides the function of accepting network parameters that define the boundaries of an

enterprise, and discover enterprise devices through said server network hardware using the

network parameters (Sampson pg 22-23). It would have been obvious to one of ordinary skill in

the art at the time of the invention to incorporate Sampson's enterprise discovery functionality

within Barker system in order to automate the entry and management of enterprise devices

(Sampson pg 22).

Regarding the limitation at least two servers providing redundancy of operation,

Applicant admitted that it was well known in the art at the time of the invention to use multiple

servers in a redundant fashion in order to maintain network sustainability for clients. It would

have been obvious to one of ordinary skill in the art at the time of the invention to use redundant

servers in the Barker system in order to maintain network sustainability for clients.

Response to Arguments

Applicant's arguments are noted however they are moot in view of the new grounds of

rejection set forth.

Conclusion

9.   The prior art made of record, in PTO-892 form, and not relied upon is considered pertinent

to applicant's disclosure.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Sean Reilly whose telephone number is 571-272-4228. The

examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

June 7, 2006
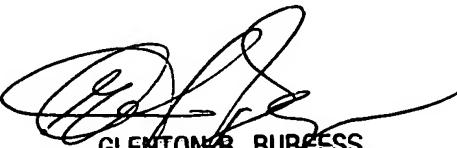
GLENTON B. BURGESS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100